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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,425	09/26/2006	Shinichi Yanagishita	038921.58288US	3254

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EXAMINER	
FAN, CHARLES C	
ART UNIT	**PAPER NUMBER**
2628	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/594,425	YANAGISHITA ET AL.	
	Examiner	Art Unit	
	CHARLES FAN	2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 September 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *09/26/2006, 05/02/2007, 11/27/2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 5 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim does not expressly or implicitly require performance of any of the steps by a machine, such as a general-purpose computer. There are several tests that can be applied to determine whether claims are directed toward statutory subject matter. They include: (1) a process under 35 USC 101 requires a transformation of physical subject matter, tangible or intangible, to a different state or thing; (2) the "abstract idea" exception; and (3) the claim must recite a practical application, that is a useful, concrete, and tangible result. It is noted that claims that are broad enough to read on statutory and nonstatutory subject matter are considered nonstatutory. Claim 5 is directed to a computer program and do not require a transformation any physical subject matter, tangible or intangible, into a different state or thing. The claims are drawn simply to the computer software (i.e. software application), which is merely a set of instructions capable of being executed by a computer when the computer software is run on a computer for displaying a smear image taken with a scale factor. It is noted that claims to the computer program/software *per se* are not a process and without the computer-readable medium needed to realize the computer program/software's functionally are nonstatutory functional descriptive material. See MPEP 2106 IV B 1(a). Specifically, a claim to computer program or a tangible computer-readable medium encoded with a computer program/software is statutory because it is a computer element, which defines structural and

functional interrelationships between the computer program and other component of a computer, which permits the computer program/software's functionality to be realized.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1, 3, 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgerald (EP 0 306 989) in further view of Takarada et al (JP Pub. No. 2002-324083).

In re claims 1, 3, 5-6, Fitzgerald discloses an automatic drawing creation method of constructing a three-dimensional model by using a step of projecting a three dimensional model extracted from a three-dimensional model database on the extracted drawing frame thereby creating a two-dimensional projection drawing (Column 1, 22-36), a step of extracting dimensional line elements in accordance with the shape of the two-dimensional projection drawing from a dimension database that stores data concerning a plurality of dimensional line

elements (Column 1, lines 22-35), and compounding the two dimensional projection drawing and outputting the two-dimensional projection drawing as a drawing (Column 1, lines 30-35). It is noted that Fitzgerald does not explicitly disclose computer source having a processing device source, a memory source, an input device, in which the processing device source executes a processing including; a step of extracting a designated drawing frame from a drawing frame database that stores drawing frame data. However, Takarada et al discloses computer source having a processing device source [0043], a memory source [0042], an input device [0028], in which the processing device source executes a processing including; a step of extracting a designated drawing frame from a drawing frame database that stores drawing frame data [0090]. It would have been obvious to one of ordinary skill to combine the CAD program with the computer system and framing of Takarada et al. of using a known method to run a CAD program and using drawing frame in order to form a 2-d representation of the model.

6. Claims 2, 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fitzgerald (EP 0 306 989) in further view of Takarada et al (JP Pub. No. 2002-324083) and Sawada (Japanese Pat. 05225270).

In re claims 2, 4, Fitzgerald discloses extracting designated tolerance values from a design reference data base and describing them at designated positions on the two-dimensional projection drawing when the deformed dimension (column 1, lines 30-40). it is noted that Fitzgerald and do not explicitly disclose extracting remarks from a design reference data base and describing them at designated positions on the two- dimensional

projection drawing when the deformed dimension. However, Sawada et al discloses extracting remarks from a design reference data base and describing them at designated positions on the two- dimensional projection drawing when the deformed dimension (abstract). It would have been obvious to one of ordinary skill to combine the Image generating of Okada et al. and Fujita with the tolerance values and remarks with the motivation of displaying and knowing the tolerance value and remark for sizes needed in CAD.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Okuda et al. (US Pub. No. 2006/0279572) discloses a CAD generating device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES FAN whose telephone number is (571)270-3550. The examiner can normally be reached on mon- fri 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xiao Wu can be reached on (571)272-7761. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kee M Tung/
Supervisory Patent Examiner, Art Unit 2628

CFan